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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,006	07/17/2003	Prem Vakharia	T0095US	1668
68412 7590 07/13/2007 ROGITZ & ASSOCIATES 750 B STREET SUITE 3120 SAN DIEGO, CA 92101			EXAMINER MAI, TRI M	
			ART UNIT	PAPER NUMBER
			3781	
			MAIL DATE	DELIVERY MODE
			07/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/622,006

Applicant(s)

VAKHARIA ET AL.

Examiner

Tri M. Mai

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 9-17 is/are pending in the application.
- 4a) Of the above claim(s) 2,9 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,10,12,13,16 and 17 is/are rejected.
- 7) ☒ Claim(s) 14-15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

Art Unit: 3781

1. Claims 2, 9, and 11 are withdrawn from further consideration pursuant to 37 CFR

1.142(b) as being drawn to a nonelected invention as previously set forth.

2. Claims 1, 3-5, 16, and 17 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Rosenow (3145749) in view of either Russell (3161932) or Kurt (308209). Rosenow teaches a head cover with a fastener being a zipper 15. It would have been obvious for one of ordinary skill in the art to provide the magnetic fastener in Rosenow as taught by either Russell or Kurt to provide an alternative fastener.

Regarding claim 5, it would have been obvious for one of ordinary skill in the art to provide at least four magnets in each strip to provide the desired amount of magnets for securely closing the closure.

The combination of Rosenow in view of either Russell or Kurt inherently meets the limitations as set forth in the method claims.

3. Claims 6, 10, 12, and 13 are rejected under 35 U.S.C. 103 (a) as being unpatentable over the Rosenow rejection above in paragraph 5, and further in view of Lauretti (2422245). It would have been obvious for one of ordinary skill in the art to provide a liner as taught by Lauretti to provide added protection.

4. Claims 1, 3-7, 10, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lauretti in view of Russell (3161932) or Kurt. Lauretti teaches a head cover with a fastener being a zipper 15. It would have been obvious for one of ordinary skill in the art to provide the magnetic fastener in Lauretti as taught by either Russell or Kurt to provide an alternative fastener.

Art Unit: 3781

Regarding claim 5, it would have been obvious for one of ordinary skill in the art to provide at least four magnets in each strip to provide the desired amount of magnets for securely closing the closure.

5. Claims 14-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive. In view of the amendment, the rejections with Harding, White and Change is now withdrawn.

6. With respect to the rejections of Rosenow with either Russell and Kurt, in addition to the response as set forth previously, applicant asserts that Russell and Kurt are not in the field of analogous prior art. The examiner submits that it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both Lauretti and Kurt are pertinent to the fastening element being used in the cover. In the field of covering, to use another type of fastening device, such as the device as disclosed in both Lauretti and Kurt are within the skill of one of ordinary skill in the art. Furthermore, the examiner also submits that both Kurt provides clear suggestion for that one to use on a cover.

"the fastener comprising the present invention may be to any form of fabric, cloth, cover, garment, apparel, tarpaulin, bag, container, or other device" (col. 4, ln. 6)

Art Unit: 3781

Lauretti also provide similar suggestion to substitute with an ordinary zipper.

“The advantages of the invention to mothers are very great, as all fumbling for fasteners or snap, hook, button or zipper type, is eliminated.” (col. 2, ln. 30).

As with the combination with Lauretti (2422245), the examiner submits that it would have been obvious for one of ordinary skill in the art to provide a liner as taught by Lauretti to provide added protection.

7. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3781

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tri M. Mai
Primary Examiner
Art Unit 3781

